



WISCONSIN

DEPARTMENT OF WORKFORCE DEVELOPMENT

Division of Economic Support
Bureau of Welfare Initiatives

**TO: Economic Support Supervisors
Economic Support Lead Workers
Training Staff
FSET Administrative and Provider Agencies
Child Care Coordinators
W-2 Agencies**

BWI OPERATIONS MEMO

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Non W-2 ☒ W-2 ☒ CC ☐

PRIORITY: URGENT

**FROM: Stephen M. Dow
Program Implementation Team
Policy Analysis and Program Implementation Section**

SUBJECT: MEDICAL ASSISTANCE TEMPORARY ABSENCE

CROSS REFERENCE: Medical Assistance Handbook, Appendix 3.6.0.

EFFECTIVE DATE: This policy is effective with new applications and reviews beginning March 1. Follow this new temporary absence policy for applications backdated to December 1, 1998.

PURPOSE

This memo describes a change to and clarification of the Medicaid temporary absence policy. This change is to allow caretakers of children removed from the home under a dispositional order by a court to qualify for Medical Assistance (MA or Medicaid).

CURRENT POLICY

Medicaid may be provided to a caretaker relative even when there is no child in the home, if the child is temporarily absent. The current MA policy is that a child is considered to be temporarily absent from the home when:

1. He or she is expected to be gone for less than 6 months, and has not been removed from the home under a dispositional order (s. 48.355, Wis. Stats.) that places the custody of the child out of the home for 3 months or more, and the child is still under the care and control of the caretaker; **or**
2. He/she is expected to be gone for 6 months or more and there is a written plan that shows the intent to return the child to the home and the child has not been removed from the home under a dispositional order that places the custody of the child out of the home for 3 months or more and the child is still under the care and control of the caretaker;

Children may be removed from the home prior to a dispositional ¹ order. They may be removed under a voluntary placement agreement with the caretakers; or they may be placed out of the home under a temporary physical custody court order ². These court orders can be for up to one year. In most cases, the court will not indicate that the order is for a specific period of time. Therefore, the child could be gone for a very short period or up to a year. The result is that many children placed in out-of-home care by the child welfare agencies may be considered temporarily absent from their homes until a dispositional order is made.

While a child is temporarily absent, the child's parent (or other caretaker relative) will have his or her eligibility for MA determined as if the child were still in the home.

Whenever a dispositional order has been made concerning a child's placement and that order specifies a placement for a period of 3 or more months (this includes a placement for an indefinite period), that child is not considered temporarily absent. Without a child in the home, the parent is not considered a caretaker of a deprived child and can not be eligible for MA unless aged, blind, disabled, pregnant or a child.

This Medicaid policy was based on the Aid to Families with Dependent Children (AFDC) temporary absence policy defined in Wisconsin's AFDC State Plan.

NEW POLICY

Background

Many times the caretakers of children who have been placed in foster homes are in need of medical treatment for problems that led to their children being removed from the home. Without MA coverage, they may be unable to get the health care services they require in order to create a situation where the family would be reunited. To deal with this situation, we are changing the temporary absence policy.

Through a Medicaid State Plan amendment, we are now allowed to extend the definition of temporary absence to include children removed from the home under dispositional orders, without regard to the duration of the placement, as long as these 2 other conditions are met:

1. The children may not be receiving federal (Title IV-E) foster care payments.

The federal Health Care Financing Administration (HCFA) has told us that we could not use a state plan amendment to cover caretakers whose children are receiving Title IV-E payments. The Department of Health and Family Services is seeking a federal waiver to extend coverage to the parents of a child who is receiving IV-E Foster Care payments. This waiver request is still pending.

2. The caretakers are cooperating with a child welfare plan whose goal is to reunite the family.

Some children have been placed in Kinship Care homes under a dispositional order by the courts. In those cases, this change to the temporary absence policy applies equally to children receiving kinship care as well as those in non-Title IV-E foster care. We expect that this new policy will affect only a few hundred cases statewide.

New Definition

A minor child and that child's caretaker can be in the same AFDC-MA or AFDC-Related MA AG, even when not living together if either is temporarily absent, provided:

¹ A dispositional order is an order of the court under s.48.355, Wis. Stats.

² A temporary physical custody order is used when a child is first removed from the home and can be made by a court intake worker, a juvenile court commissioner or a juvenile court judge. This is used before the case goes to "trial."

1. The continuous absence is expected to be for no more than 6 months; **and**

The ES agency may approve an extension of a child's temporary absence beyond 6 months when there is a written plan which demonstrates that the intent is to return the child to the caretaker's home.

2. The child's care is not reimbursable by the Title IV-E program (Federal Foster Care); **and**
3. The caretaker continues to exercise responsibility for the care and control of the child; **and**
 - a. For AFDC-MA, the child's absence is **not** the result of removing the child under a dispositional order (s. 48.355, Wis. Stats.) placing the physical custody of the child outside of the home for a period of 3 months or more (this includes an order for an indefinite period); **or**
 - b. For AFDC-Related MA, if the child has been removed from the home by a child welfare agency under a dispositional order (s. 48.355, Wis. Stats.) placing the physical custody of the child outside of the home (for any duration), the caretaker must continue to participate in a permanency plan developed by the child welfare agency whose goal is the reunification of the family.

Placement Out of the Home

This temporary absence policy covers children placed by child welfare agencies in foster care, kinship care or group homes. Children who are inmates of a public institution may not be considered temporarily absent. Children in an Institution for Mental Disease (IMD), a child caring institution or any other medical institution for 30 or more days are not temporarily absent, unless they were placed there by a child welfare agency.

NLRR Caretakers

Non-Legally Responsible Relatives (NLRR) of children placed in their homes may be eligible for MA as a caretaker of a deprived child, if they meet all other eligibility criteria. These would include children receiving Kinship Care. However, if the child is considered temporarily absent from his or her parent's (or other caretaker's) home, an NLRR would not be eligible for MA as the caretaker of the child. This is because the NLRR and the parents cannot both be considered to be providing care for the children under federal law. Under the temporary absence policy, the parents are considered to still be the children's caretaker while the children are temporarily absent.

IF NLRR caretakers have other children in the home they are caring for, and are otherwise eligible, they could receive Medicaid.

Child Welfare Referrals

The Division of Health Care Financing is working with the Division of Children and Family Services to alert Child Welfare agencies statewide of the new MA policy. We expect these "child welfare parents" to apply for MA benefits after being referred by their child welfare caseworkers.

PROCESSING

We need to identify any parents certified under the extended temporary absence policy. We have created new Medical Status (Med Stat) Code to capture this information. However, CARES has not been programmed yet to accommodate this policy, so MA certification will need to be done manually. It is up to the local agencies to decide whether they want to use overrides in CARES and send 3070's with the correct Med Stat codes or to handle the cases in a manual process.

Do not list a temporarily absent child(ren) in the caretaker's case in CARES.

When caretakers apply for MA and inform you that their child(ren) has been placed out of the home under a dispositional order, they need to tell you who their caseworker is. The caseworker will then verify for you that:

1. The child(ren) is not IV-E eligible; **and**
2. The caretakers continue to participate in a child welfare agency developed plan whose goal is the reunification of the family for a child(ren) removed from the home under a dispositional order.

In addition, when a caretaker fails to cooperate with a permanency plan, the child welfare agency will contact the MA eligibility worker.

Eligibility for the caretakers will be determined as if the children are in the home. The children will be counted in the household size. Any countable income and assets the children have of their own will be included in the household income and assets, with the exception for any foster care benefits or child support provided by the caretakers you are determining eligibility for.

Caretakers must meet eligibility under the AFDC-Related Categorically Needy criteria to receive MA. The children must be deprived due to the absence, incapacity or unemployment of a parent.

If found eligible, the caretakers must be certified manually using a 3070 under new Med Stat Codes. For caretakers eligible under AFDC-Related criteria, use code "AM".

Certifying MA eligibility for the absent children on the caretakers' cases would be too difficult to administer. Therefore, temporarily absent children should continue to receive their MA under a certification separate from the certification of the caretakers.

POLICY TRAINING

An ETN is scheduled for Friday, February 26, 1999, from 9:30 am. - 10:20 a.m., to provide an overview of the new policies and procedures. The ETN will also include a question and answer period for questions.

CONTACT

DES Call Center